

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JOHN L. SCHULTZ</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 258,804
<b>PRICKETT AND SON INC.</b>	)	
Respondent	)	
AND	)	
	)	
<b>CONTINENTAL WESTERN INSURANCE CO.</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on February 21, 2002.

**Issues**

Respondent's Application for Review Before The Workers Compensation Board And Docketing Statement states that the only issue is whether claimant is entitled to temporary total disability compensation. For purposes of this review there is no issue concerning the compensability of the claim. Respondent does not dispute the award of medical treatment benefits.

**Findings of Fact and Conclusions of Law**

After reviewing the record and considering the arguments, the Appeals Board (Board) concludes it does not have jurisdiction at this point in the proceedings to determine the issue raised, and the appeal should be dismissed.

The Board concludes, as argued by claimant, that the appeal does not raise a jurisdictional issue. K.S.A. 44-534a lists jurisdictional issues. Whether claimant is

temporarily totally disabled or entitled to temporary total disability compensation is not one of the issues listed. Where other jurisdictional prerequisites are met, including notice, timely written claim, and accident arising out of and in the course of employment, the ALJ has jurisdiction to determine whether the claimant is or is not temporarily disabled and also whether or not to award temporary total disability compensation.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of the Order entered by Administrative Law Judge Bruce E. Moore on February 21, 2002 , should be, and the same is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of July 2002.

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BOARD MEMBER

c: Mark A. Buck, Attorney for Respondent and Insurance Carrier  
John C. Nodgaard, Attorney for Claimant  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Workers Compensation Director